

needed for DHS to conduct the automated portions of its identity, law enforcement, or security investigations or examinations with respect to aliens detained in connection with immigration proceedings. If at the time of the custody hearing DHS seeks a brief continuance in an appropriate case based on unresolved identity, law enforcement, or security investigations or examinations, the immigration judge in the exercise of discretion may grant one or more continuances for a limited period of time which is reasonable under the circumstances.

[70 FR 4753, Jan. 31, 2005]

Subpart D [Reserved]

Subpart E—List of Pro Bono Legal Service Providers

SOURCE: 62 FR 9073, Feb. 28, 1997, unless otherwise noted.

§ 1003.61 General provisions.

(a) *Definitions*—(1) *Director*. Director means the Director of the Executive Office for Immigration Review (EOIR), pursuant to 8 CFR 1001.1(o), and shall also include any office or official within EOIR to whom the Director delegates authority with respect to subpart E of this part.

(2) *Pro bono legal services*. Pro bono legal services are those uncompensated legal services performed for indigent individuals or the public good without any expectation of either direct or indirect remuneration, including referral fees (other than filing fees or photocopying and mailing expenses), although a representative may be regularly compensated by the firm, organization, or pro bono referral service with which he or she is associated.

(3) *Organization*. A non-profit religious, charitable, social service, or similar group established in the United States.

(4) *Pro bono referral service*. A referral service, offered by a non-profit group, association, or similar organization established in the United States that assists persons in locating pro bono representation by making case referrals to attorneys or organizations that are

available to provide pro bono representation.

(5) *Provider*. Any organization, pro bono referral service, or attorney whose name is included on the List of Pro Bono Legal Service Providers.

(b) *Authority*. The Director shall maintain a list, known as the List of Pro Bono Legal Service Providers (List), of organizations, pro bono referral services, and attorneys qualified under this subpart to provide pro bono legal services in immigration proceedings. The List, which shall be updated not less than quarterly, shall be provided to individuals in removal and other proceedings before an immigration court.

(c) *Qualification*. An organization, pro bono referral service, or attorney qualifies to be included on the List if the eligibility requirements under § 1003.62 and the application procedures under § 1003.63 are met.

(d) *Organizations*. Approval of an organization's application to be included on the List under this subpart is not equivalent to recognition under part 1292 of this chapter. Recognition under part 1292 of this chapter does not constitute a successful application for purposes of the List.

[80 FR 59510, Oct. 1, 2015]

§ 1003.62 Eligibility.

(a) *Organizations recognized under part 1292*. An organization that is recognized under part 1292 of this chapter is eligible to apply to have its name included on the List if the organization meets the requirements in paragraphs (a)(1) through (3) of this section.

(1) The organization will provide a minimum of 50 hours per year of pro bono legal services to individuals at each immigration court location where the organization intends to be included on the List, in cases where an attorney or representative of the organization, or an attorney or representative to whom the organization has referred the case for pro bono representation, files a Form EOIR-28 Notice of Entry of Appearance as Attorney or Representative before the Immigration Court (EOIR-28 Notice of Entry of Appearance). When an attorney or representative of the organization represents the

individual pro bono before the immigration court location, the organization may count, toward the 50-hour requirement, the attorney's or representative's out-of-court preparation time and in-court time. When the organization refers the case for pro bono legal services outside the organization, the organization may count, toward the 50-hour requirement, time the organization's attorneys and representatives spent providing pro bono legal services, for example conducting an intake interview or mentoring the attorney or representative to whom the case is referred. However, the organization is not permitted to count the time of the attorney or representative to whom the case was referred.

(2) The organization has on its staff at least one attorney, as defined in §1292.1(a)(1) of this chapter, or at least one representative accredited under part 1292 of this chapter, to practice before the immigration courts and the Board of Immigration Appeals.

(3) No attorney or representative who will provide pro bono legal services on the organization's behalf in cases pending before EOIR is the subject of an order of disbarment under §1003.101(a)(1) or suspension under §1003.101(a)(2).

(b) *Organizations not recognized under part 1292.* An organization that is not recognized under part 1292 of this chapter is eligible to apply to have its name included on the List if the organization meets the requirements in paragraphs (b)(1) through (3) of this section.

(1) The organization will provide a minimum of 50 hours per year of pro bono legal services to individuals at each immigration court location where the organization intends to be included on the List, in cases where an attorney or representative of the organization, or an attorney or representative to whom the organization has referred the case for pro bono representation, files a Form EOIR-28 Notice of Entry of Appearance. When an attorney or representative of the organization represents the individual pro bono before the immigration court location, the organization may count, toward the 50-hour requirement, the attorney's or representative's out-of-court preparation time and in-court time. When the

organization refers the case for pro bono legal services outside the organization, the organization may count, toward the 50-hour requirement, time the organization's attorneys or representatives spent providing pro bono legal services, for example conducting an intake interview or mentoring the attorney or representative to whom the case is referred. However, the organization is not permitted to count the time of the attorney or representative to whom the case was referred.

(2) The organization has on its staff at least one attorney, as defined in §1292.1(a)(1) of this chapter.

(3) No attorney or representative who will provide pro bono legal services on the organization's behalf in cases pending before EOIR is the subject of an order of disbarment under §1003.101(a)(1) or suspension under §1003.101(a)(2).

(c) *Pro bono referral services.* A referral service is eligible to apply to have its name included on the List at each immigration court location where the referral service either refers or plans to refer cases to attorneys or organizations that will provide pro bono legal services to individuals in proceedings before an immigration judge.

(d) *Attorneys.* An attorney, as defined in §1292.1(a)(1) of this chapter, is eligible to apply to have his or her name included on the List if the attorney meets the requirements in paragraphs (d)(1) through (3) of this section.

(1) The attorney is not the subject of an order of disbarment under §1003.101(a)(1) or suspension under §1003.101(a)(2);

(2) The attorney will provide a minimum of 50 hours per year of pro bono legal services to individuals at each immigration court location where the attorney intends to be included on the List, in cases where he or she files a Form EOIR-28 Notice of Entry of Appearance. The attorney may count, toward the requirement, both out-of-court preparation time and in-court time.

(3) The attorney cannot provide pro bono legal services through or in association with an organization or pro bono referral service described in paragraph (a), (b), or (c) of this section because:

(i) Such an organization or referral service is unavailable; or

(ii) The range of services provided by an available organization(s) or referral service(s) is insufficient to address the needs of the community.

[80 FR 59510, Oct. 1, 2015]

§ 1003.63 Applications.

(a) *Generally.* To be included on the List, any organization, pro bono referral service, or attorney that is eligible under § 1003.62 to apply to be included on the List must file an application with the Director. Applications must be received by the Director at least 60 days in advance of the quarterly update in order to be considered. The application must:

(1) Establish by clear and convincing evidence that the applicant qualifies to be on the List pursuant to § 1003.61(c);

(2) Specify how the organization, pro bono referral service, or attorney wants its name and contact information to be set forth on the List; and

(3) Identify each immigration court location where the organization, pro bono referral service, or attorney provides, or plans to provide, pro bono legal services.

(b) *Organizations.* An organization, whether recognized or not under part 1292, must submit with its application a declaration signed by an authorized officer of the organization that states under penalty of perjury:

(1) That it will provide annually at least 50 hours of pro bono legal services to individuals in removal or other proceedings before each immigration court location identified in its application;

(2) That every attorney and accredited representative who will represent clients pro bono before EOIR on behalf of the organization is registered to practice before EOIR under § 1292.1(f);

(3) That no attorney or representative who will provide pro bono legal services on behalf of the organization in cases pending before EOIR:

(i) Is under any order suspending, enjoining, restraining, disbarring, or otherwise restricting him or her in the practice of law; or

(ii) Is the subject of an order of disbarment under § 1003.101(a)(1) or suspension under § 1003.101(a)(2); and

(4) Any specific limitations it has in providing pro bono legal services (e.g., not available to assist detained individuals or those with criminal convictions, or available for asylum cases only).

(c) *Pro bono referral services.* A pro bono referral service must submit with its application a declaration signed by an authorized officer of the referral service that states under penalty of perjury:

(1) That it will offer its referral services to individuals in removal or other proceedings before each immigration court location identified in its application; and

(2) Any specific limitations it has in providing its pro bono referral services (e.g., not available to assist detained individuals or those with criminal convictions, or available only for asylum cases).

(d) *Attorneys.* An attorney must submit with his or her application a declaration that states under penalty of perjury:

(1) That he or she will provide annually at least 50 hours of pro bono legal services to individuals in removal or other proceedings before each immigration court location identified in his or her application;

(2) Any specific limitations the attorney has in providing pro bono legal services (e.g., not available to assist detained individuals or those with criminal convictions, or available for asylum cases only);

(3) A description of the good-faith efforts he or she made to provide pro bono legal services through an organization or pro bono referral service described in § 1003.62(a), (b), or (c) to individuals appearing before each immigration court location listed in the application;

(4) An explanation that any such organization or referral service is unavailable or that the range of services provided by available organization(s) or referral service(s) is insufficient to address the needs of the community;

(5) His or her EOIR registration number;